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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hyung Byum Kim et al.

Examiner: Webb, Jamisue A.

Serial No.: 09/750,744

Art Unit: 3761

Filed: December 28, 2000

Docket No.: 13,788

For: ABSORBENT ARTICLE WITH FLUID
INTAKE INTENSIFIER

Date: March 3, 2003

REPLY BRIEF

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

For the above-identified application, this REPLY BRIEF is filed in response to the EXAMINER'S ANSWER which has a mailing date of 02/12/2003.

REMARKS

The Examiner's Answer has asserted that Claims 23-33, 35 and 37 stand or fall together, and that Claims 34 and 36 stand or fall together. The Examiner has alleged that only one argument/issue has been presented for Claims 23-33, 35 and 37 and that another argument/issue has been presented for Claims 34 and 36. The Examiner's allegations are respectfully traversed.

Contrary to the Examiner's assertions, Appellants have provided separate reasons for the patentability of individual claims. For example, the cited references do not disclose or suggest an article which includes a Thru-Air Bonded Carded Web material having a basis weight of between about 15 g/m² and about 70 g/m², in the configurations called for by Appellants' presented claims 23 and 37. Additionally, the cited references do not disclose or suggest an article which includes a pledget having layers of a Thru-Air Bonded Carded Web and an airlaid nonwoven material, as called for by claim 27, or a pledget comprising a composite of the Thru-Air Bonded Carded Web and an airlaid nonwoven material, as called for by claim 28. The cited references also do not teach a structure having a pledget with the dimensions or the wrapping sheet called for by claims 30 and 31, respectively. Neither do the cited references disclose or suggest an article having a cover wherein the hydroentangled,

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hydroapertured spun-lace material is rayon fiber, as called for by claim 34, or wherein the hydroentangled, hydroapertured spun-lace material is selected from the group consisting of polyethylene terephthalate polyester, polyethylene, polypropylene and bicomponents thereof, as called for by claim 35. The cited references also do not teach an article having a cover wherein the hydroentangled, hydroapertured spun-lace material is a homogeneous mixture of about 70% rayon fiber and about 30% polyethylene terephthalate polyester as called for by claim 36. Additionally, the cited references fail to teach a structure which includes a Thru-Air Bonded Carded Web material having a basis weight of between about 15 g/m² and about 70 g/m², and having a staple fiber that has a denier of between about 3 and about 10, in the configuration called for by Appellants' presented claims, as called for by claim 37.

It is, therefore, readily apparent that separate reasons for patentability have been set forth for individual claims. Accordingly, it is respectfully submitted that Claims 23-33, 35 and 37 do not stand or fall together. For the same reasons, it is respectfully submitted that Claims 34 and 36 also do not stand or fall together.

The Examiner has alleged that claims 23-33, 35 and 37 are unpatentable over U.S.P. 6,326,525 to Hamajima et al. in view of U.S.P. 5,643,240 to Jackson et al., under 35 U.S.C. §103(a). The Examiner's allegations are respectfully traversed.

With regard to the cover layer being hydroentangled and hydroapertured, the Examiner has argued that "...if the product in the claim with the product-by-process limitation is the same as the product of the prior art, the claim is unpatentable even though the prior art was made by a different process." It is respectfully submitted, however, that the Examiner has failed to show that the product in the claim is the same as the product in the prior art.

Even if Hamajima discloses a topsheet composed of an "apertured nonwoven fabric", it is respectfully pointed out that it is well known that **different processes** for forming nonwoven fabrics will in fact produce **different structures**. It is well recognized that nonwoven fabrics employ particular types of processing to form a stable, integrated web. For example, the nonwoven fabrics can include adhesive bonding, thermal bonding, sonic bonding, though-air bonding to integrate the web. Each of these different processes can produce a nonwoven fabric having different structures and different physical properties. The fabrics can have different levels of strength, and different levels of loft and softness, as well as other different properties. It is well known that when a nonwoven fabric has been hydroentangled, the integrated fabric will have yet another **different structure** arising from the distinctive hydro-mechanical energy and

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turbulence generated during the hydroentangling operation. This different structure will again have different properties.

Similarly, it is well recognized that nonwoven fabrics can be apertured with different processes, and the different aperturing processes will produce different structures. For example, aperturing with pins, aperturing with heated thermal devices and aperturing with ultrasonic energy can each produce a different structure around the formed apertures. As a result, each would produce a different fabric with different physical properties.

Accordingly, the Examiner's unsupported assumption that different processes would produce the same product is inappropriate and erroneous. Contrary to the Examiner's position, it is well recognized in the art that different processes would instead produce different products. It is, therefore, readily apparent that Hamajima fails to teach the hydroentangled, hydroapertured cover configurations called for by the claimed invention. To the extent that Hamajima discloses a topsheet composed of an "apertured nonwoven fabric", the disclosure is clearly insufficient to teach or suggest a cover which includes a hydroentangled, hydroapertured spun-lace material, as called for by Appellants' presented claims.

Recognizing that Hamajima does not teach Appellants' claimed invention, the Examiner's rejection has been based upon a combination of Hamajima with U.S.P. 5,643,240 (Jackson).

Jackson, however, fails to cure the deficiencies of Hamajima for the reasons previously set forth in Appellants' Appeal Brief. A proper combination of Hamajima and Jackson would still fail to disclose or suggest an article having the configurations called for by Appellants' presented claims.

As a result, when compared to Appellants' claimed invention, the structures taught by a proper combination of Hamajima and Jackson would remain less able to provide desired combinations of rapid penetration of body fluid into the article, rapid absorption, greater retention of body fluid, less rewet, reduced lateral run-off and leakage, cushioned feel and reduced bulk. It is, therefore, readily apparent that a proper combination of Hamajima and Jackson would not teach Appellants' claimed invention.

Accordingly, it is respectfully submitted that the rejection under 35 U.S.C. §103 should be reversed.

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The Examiner has asserted that claims 34 and 36 are unpatentable over U.S.P. 6,326,525 to Hamajima et al. in view of U.S.P. 5,769,834 to Reiter et al. (Reiter), under 35 U.S.C. §103(a). The Examiner's assertions are respectfully traversed.

Reiter fails to cure the deficiencies of Hamajima for the reasons previously set forth in Appellants' Appeal Brief. A proper combination of Hamajima and Reiter would still fail to disclose or suggest an article having the configurations called for by Appellants' presented claims. As a result, when compared to Appellants' claimed invention, the structures taught by a proper combination of Hamajima and Reiter would remain less able to provide desired combinations of rapid penetration of body fluid into the article, rapid absorption, greater retention of body fluid, less rewet, reduced lateral run-off and leakage, cushioned feel and reduced bulk. It is, therefore, readily apparent that a proper combination of Hamajima and Reiter would not teach Appellants' claimed invention.

Accordingly, it is respectfully submitted that the rejection under 35 U.S.C. §103 should be reversed.

It is respectfully submitted that none of the cited references, or any proper combination thereof, would disclose or suggest the changes and modifications needed to synthesize the article called for by Applicants' claims. Only by impermissibly using Applicants' own disclosure as a guide for picking and choosing disparate components would a person of ordinary skill be led to the changes and modifications needed to construct the invention called for by Appellants' claims.

It is, therefore, readily apparent that none of Hamajima, Jackson, Reiter or any proper combination thereof would disclose or suggest the invention called for by Appellants' claims. Accordingly, the rejection of the claims as being unpatentable over these references should be reversed.

CONCLUSION

For the reasons set forth in the above remarks and the Appellants' previous Appeal Briefs, it is respectfully submitted that the Examiner's rejections should be reversed. It is respectfully submitted that Applicants' claimed invention is neither expressly taught by nor inherent in the cited references. Furthermore, the Examiner has not established a *prima facie* case that the particular configurations of components called for by Appellants' claims would be suggested by a proper combination of the cited references. To the contrary, it is readily

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apparent that the Examiner's position is based upon a clearly **unsupported** and erroneous assumption. When each cited reference is considered in its entirety and each reference is taken as a whole, a proper combination of the cited references would not teach Appellants' claimed invention. Only in light of Appellants' present disclosure and the impermissible use of hindsight would a person of ordinary skill be directed to the significant changes and modifications needed to reconfigure the various components to arrive at Applicants' claimed invention. It is, therefore, readily apparent that the cited references do not render unpatentable the invention called for by Appellants' claims.

Accordingly, it is respectfully submitted that claims Claims 23 through 37 are in allowable condition, and that the Examiner's rejections should be reversed.

Please charge any fee required for filing this Reply Brief to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. Any additional prosecutorial fees which are due may also be charged to deposit account number 11-0875.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMITTAL

I, Catherine E. Wolf, hereby certify that on March 3, 2003, this document is being facsimile transmitted to Assistant Commissioner for Patents, Washington, D.C. 20231.

By: Catherine E. Wolf
Catherine E. Wolf